

The City eventually responded to the complaint, (ECF No. 18), and also filed a motion to dismiss for failure to state a claim pursuant to Federal Rule of Civil procedure 12(b)(6). (ECF No.

26.) After the Magistrate Judge issued a show cause order directing him to do so, (ECF No. 27), McGhee filed a response to the City's motion. (ECF No. 29.)

McGhee alleges he was arrested without probable cause or any physical evidence but that the charges were dismissed on May 17, 2017. (ECF No. 1 at PageID 1.) He contends the City was negligent in failing to properly train its officers in the collection of evidence to ensure that an arrest is based on probable cause and in the tagging evidence into the Shelby County Jail. (*Id.*) In the motion to dismiss, the City contends that, regardless of whether McGhee's claims are construed as brought pursuant to 42 U.S.C. § 1983, the Tennessee Governmental Tort Liability Act (TGTLA), Tenn. Code Ann. § 29-20-201, *et seq.*, or Tennessee negligence law, he has failed to state a claim on which relief may be granted.

On October 3, 2019, Magistrate Judge Pham issued an R&R recommending the City's motion to dismiss be granted. Objections to the R&R were due on or before October 21, 2019. *See* Fed. R. Civ. P. 72(b)(2); *see also* Fed. R. Civ. P. 6(a), (d). However, neither McGhee nor the City has filed any objections.

Magistrate Judge Pham construed McGhee's claims against the City as alleging a violation of his civil rights pursuant to § 1983. He found that McGhee has not alleged sufficient facts to state a plausible § 1983 claim that the City acted with deliberate indifference in training its officers. The Court finds no error in that conclusion. Accordingly, the R&R is ADOPTED, and the City's motion to dismiss is GRANTED.

It is CERTIFIED, pursuant to Federal Rule of Appellate Procedure 24(a), that any appeal in this matter by McGhee would not be taken in good faith. Leave to appeal *in forma pauperis* is, therefore, DENIED. If McGhee files a notice of appeal, he must pay the full \$505 appellate filing

fee to the District Court Clerk or file a motion for leave to appeal *in forma pauperis* and supporting affidavit in the Sixth Circuit Court of Appeals.

The Clerk is directed to prepare a judgment.

IT IS SO ORDERED.

s/ **James D. Todd**  
JAMES D. TODD  
UNITED STATES DISTRICT JUDGE